

P-407/CP-90-723 ORDER DENYING REQUEST TO POSTPONE POLLING

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm	Chair
Tom Burton	Commissioner
Cynthia A. Kitlinski	Commissioner
Dee Knaak	Commissioner
Norma McKanna	Commissioner

In the Matter of a Petition for
Extended Area Service From the
Dodge Center to Claremont, the
West Concord to the Claremont,
and the Dodge Center to the West
Concord Exchanges of GTE
Minnesota

ISSUE DATE: November 24, 1992

DOCKET NO. P-407/CP-90-723

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POSTPONE POLLING

PROCEDURAL HISTORY

On August 21, 1992, the Commission issued its ORDER ADOPTING
RATES FOR POLLING in this matter.

On September 14, 1992, Terrance Twite filed a letter requesting
reconsideration of the Commission's August 21, 1992 Order and
further requesting that the Commission postpone the balloting of
in this matter pending the resolution of the "affected telephone
company" legal question.

On October 2, 1992, Mr. Twite submitted a second letter
requesting reconsideration and requesting that the balloting be
postponed until the legal process has concluded regarding the
"affected telephone company" issue.

On November 10, 1992, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

According to the Commission's rules, a petition for
reconsideration of a Commission Order must be received by the
Commission within 20 days after the Order is issued. In
addition, the petition must set forth the grounds relied upon to
warrant the relief sought; claimed errors in the Commission's
Order must be clearly stated. Minn. Rules, 7830.4100.

The Commission need not consider whether the filings in question
meet the reconsideration rule's specificity requirement because
they clearly do not meet the timeliness requirement. More

fundamentally, however, in analyzing the relief requested, it appears that the filings are more in the nature of a motion to postpone the balloting rather than a petition to reconsider the Commission's Order adopting rates. Such a motion would not be time-barred by the Commission's rules.

The Commission has viewed the filings as a motion to postpone the polling, considered that motion, and denied it. The Commission does not share Mr. Twite's implied premise that there is substantial reason to believe that the Commission's "affected telephone company" decision will be reversed by the Court of Appeals. Neither Mr. Twite nor any other party has made such a showing. At this point there is no appeal involving this issue in any docket pending before the Court of Appeals. Absent such a showing, the Commission is not inclined to delay the processing of this petition, the next step of which is balloting.

Moreover, if there is to be a review of this issue, it can only occur after the final Order directing the installation of EAS over the proposed routes of the Commission which, of course, can only be issued after balloting. In short, balloting is a necessary step to judicial review of this issue.

In support of his request for postponement, Mr. Twite predicted that subscribers would reject EAS if they were polled using the rates adopted in the August 21, 1992 Order and that once having rejected EAS they would not change their opinion if, following reversal of the Commission's "affected telephone company" ruling they were reballotted at reduced EAS rates. The argument is not persuasive. The Commission's experience is that reducing the price at which a valuable telephone service is offered normally has the effect of increasing the service's salability.

In these circumstances, the Commission will not postpone the balloting.

ORDER

1. The request of Terrance Twite to postpone balloting in this matter is denied.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)